



Department of Justice

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JUSTICE DEPARTMENT URGES DOT TO IMPOSE CONDITIONS ON AMERICAN AIRLINES/BRITISH AIRWAYS ALLIANCE

Increased Access to Heathrow Airport Is Key to Consumer Benefits

WASHINGTON, D.C. - The Department of Justice today urged the Department of Transportation (DOT) to impose divestitures and other conditions on a proposed airline alliance between American Airlines and British Airways in order to protect consumers. At the same time, the Department endorsed DOT's efforts to replace "Bermuda II," the restrictive air service treaty between the United States and the United Kingdom, with "Open Skies."

In comments filed today with DOT, the Department cautioned against approving the American Airlines/British Airways transaction as proposed. The Department stated that the alliance threatens a substantial loss of competition which would likely result in higher air fares and reduced service. Unless DOT requires divestiture of enough slots for new entrants to offer nine daily round trips to London from New York and Boston, as well as substantial new air service from other U.S. cities, the Department would oppose the transaction.

An Open Skies treaty would remove government restrictions on entry and pricing. The Department emphasized that for consumers to benefit from Open Skies, however, DOT must make available sufficient take off and landing slots and other facilities at London's tightly constrained Heathrow Airport to allow airlines to provide substantial new air service between the U.S. and U.K.

“This proceeding offers an opportunity to transform a market that has been severely restricted for decades into one where significant new entry can occur,” said R. Hewitt Pate, Deputy Assistant Attorney General at the Department’s Antitrust Division. “If DOT can secure meaningful access to Heathrow for new entrants, consumers will enjoy more choices for transatlantic travel from more U.S. cities at lower prices.”

American and British Airways currently compete head-to-head, offering nonstop service to London from Boston, New York, Miami, Chicago, Dallas and Los Angeles. Their combination would give them well over 50 percent of the flights in most of these markets, and even higher shares of the business travelers.

According to the Department, the scarcity of slots at Heathrow makes entry by other airlines into most of these markets unlikely, even with Open Skies. To remedy the harm in two of the markets, New York-Heathrow and Boston-Heathrow, the Department recommended that DOT require the divestiture of slots and related facilities sufficient to ensure that new entrants operate seven daily round trips from New York and two from Boston. That service would replace the service American currently offers in those two markets.

The Department also concluded that making slots available would not remedy the loss of competition in two city pairs where American and British Airways would have hubs at both ends, Dallas-London and Chicago-London, because even with slots, other airlines would be unlikely to enter. As a result the Department recommended that DOT withhold immunity for (“carve out”) joint pricing and related activities in those markets.

The Department also said that the combination would eliminate the two airlines’ current competition for contracts with corporations. Under these contracts, an airline offers discounts in

return for a corporation's commitment on travel. The loss of this competition would be in some of the largest and most lucrative business travel markets in the world.

As part of the same proceeding, the Department did not oppose the grant of antitrust immunity to a proposed alliance between United Airlines/British Midland Airways. Noting that due to Bermuda II restrictions, British Midlands is not currently an actual or potential competitor in U.S. - London markets, the Department concluded that approval of its alliance with United would not reduce competition.

The Department's comments were filed at the DOT in Docket OST-2001-11029. The DOT will make a decision early next year.

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